

ADVERSARY PROCEEDINGS

Adversary proceedings are those actions governed by Part VII of the Federal Rules of Bankruptcy Procedure. To commence an adversary proceeding, the plaintiff must file the following:

1. A signed original complaint plus one copy. The complaint must state if the matter is a core or non-core proceeding.
2. A signed [adversary cover sheet](#).
3. A completed [summons and notice of pre-trial conference](#).

If the adversary proceeding is pending before Judge Eisenberg, a [Standing Pre-Trial Conference Order and Instructions](#) will be issued by the Clerk. Plaintiff is responsible for completing the caption and serving a copy of the order upon all parties and counsel to the proceeding. The order sets forth Judge Eisenberg's requirement that parties to the proceeding must file a joint preliminary pre-conference statement no later than five (5) days before the first pre-trial conference.

The current fee for filing a complaint is \$250.00. If a debtor is the plaintiff, no fee is required.

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFF(S)		DEFENDANT(S)
ATTORNEY(S) (Firm Name, Address, and Telephone No.)		ATTORNEY(S) (If Known)
PARTY (Check One Box Only)		PARTY (Check One Box Only)
Debtor U.S. Trustee/Bankruptcy Admin Creditor Trustee Other		Debtor U.S. Trustee/Bankruptcy Admin Creditor Trustee Other
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)		
NATURE OF SUIT (Number up to five (5) boxes starting with the lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.) <i>Note: Only a complaint including an objection to discharge under 11 U.S.C. § 727 will defer the clerk's entry of the debtor's discharge in bankruptcy. A complaint to determine the dischargeability of a debt under 11 U.S.C. § 523 does not affect the entry of a discharge with respect to other debts.</i>		
FRBP 7001(1) – Recovery of Money/Property 11 - Recovery of money/property - § 542 turnover of property 12 - Recovery of money/property - § 547 preference 13 - Recovery of money/property - § 548 fraudulent transfer 14 - Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien 21 - Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property 31 - Approval of sale of property of estate and of a co-owner - § 363(h) FRBP 7001(4) – Objection/Revocation of Discharge 41 - Objection/revocation of discharge - § 727(c), (d), (e) FRBP 7001(5) – Revocation of Confirmation 51 - Revocation of confirmation FRBP 7001(6) – Dischargeability 66 - Dischargeability - § 523(a)(1), (14), (14A) priority tax claims 62 - Dischargeability - § 523(a)(2), false pretenses, false representation, actual fraud 67 - Dischargeability - § 523(a)(4), fraud as fiduciary, embezzlement, larceny continued next column	FRBP 7001(6) – Dischargeability (continued) 61 - Dischargeability - § 523(a)(5), domestic support 68 - Dischargeability - § 523(a)(6), willful and malicious injury 63 - Dischargeability - § 523(a)(8), student loan 64 - Dischargeability - § 523(a)(15), divorce/sep property settlement/decreed 65 - Dischargeability - other FRBP 7001(7) – Injunctive Relief 71 - Injunctive relief - reinstatement of stay 72 - Injunctive relief - other FRBP 7001(8) – Subordination of Claim or Interest 81 - Subordination of claim or interest FRBP 7001(9) – Declaratory Judgment 91 - Declaratory judgment FRBP 7001(10) – Determination of Removed Action 01 - Determination of removed claim or cause Other SS-SIPA Case - 15 U.S.C. §§ 78aaa et seq. 02 - Other (e.g., other actions that would have been brought in state court if unrelated to bankruptcy case)	
Check if this case involves a substantive issue of state law	Check if this is asserted to be a class action under FRCP 23	
Check if a jury trial is demanded in complaint	Demand \$	
Other Relief Sought		

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR		BANKRUPTCY CASE NO.
DISTRICT IN WHICH CASE IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE	PRINT NAME OF ATTORNEY (OR PLAINTIFF)	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, if it is required by the court. In some courts, the cover sheet is not required when the adversary proceeding is filed electronically through the court's Case Management/Electronic Case Files (CM/ECF) system. (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Parties. Give the names of the parties to the adversary proceeding exactly as they appear on the complaint. Give the names and addresses of the attorneys if known.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not presented by an attorney, the plaintiff must sign.

UNITED STATES BANKRUPTCY COURT

DISTRICT

In re

Debtor

Bankruptcy Case No.

Plaintiff

Adversary Proceeding No.

Defendant

**SUMMONS AND NOTICE OF PRETRIAL CONFERENCE
IN AN ADVERSARY PROCEEDING**

YOU ARE SUMMONED and required to submit a motion or answer to the complaint which is attached to this summons to the clerk of the bankruptcy court within 30 days after the date of issuance of this summons, except that the United States and its offices and agencies shall submit a motion or answer to the complaint within 35 days.

Address of Clerk

At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorney.

Name and Address of Plaintiff's Attorney

If you make a motion, your time to answer is governed by Bankruptcy Rule 7012.

YOU ARE NOTIFIED that a pretrial conference of the proceeding commenced by the filing of the complaint will be held at the following time and place.

Address

Room

Date and Time

IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

Clerk of the Bankruptcy Court

By:

Date

Deputy Clerk

CERTIFICATE OF SERVICE

I, _____, certify that I am, and at all times during
(name)
service of process was, not less than 18 years of age and not a party to the matter concerning which service
process was made. I further certify that the service of this summons and a copy of the complaint was
_____ by:
(date)

☐ Mail service: Regular, first class United States mail, postage fully pre-paid, addressed to:

☐ **Personal Service:** by leaving the process with defendant or with an officer or agent of defendant at:

☐ Residence Service: By leaving the process with the following adult at:

☐ Publication: The defendant was served as follows: [Describe briefly]

☐ State Law: The defendant was served pursuant to the laws of the State of _____, as follows: [Describe briefly] (name of state)

Under penalty of perjury, I declare that the foregoing is true and correct.

Signature

Print Name		
Business Address		
City	State	Zip

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X

In re

Case No.

Debtor.

-----X

STANDING PRE-TRIAL
CONFERENCE ORDER
AND INSTRUCTIONS

Plaintiff(s),

- against -

Adv. Proc. No.

Defendant(s).

-----X

Counsel for all parties to adversary proceedings commenced on or after August 10, 1992, are hereby ORDERED to confer and then prepare, execute, and file with the Court no later than five days before the first Pre-Trial Conference, a single document captioned PRELIMINARY PRE-CONFERENCE STATEMENT which sets forth the following information:

1. A concise statement of the nature of this action.
2. A separate brief description of all legal arguments. Include citations to all statutes, Bankruptcy Code sections, Bankruptcy Rules and case law intended to be relied on by each party.
3. A brief summary of relevant facts not in dispute.
4. A precise statement of facts in dispute (include jurisdiction, if applicable).
5. Identify and briefly describe all legal and factual issues to be decided by the Court.
6. A statement of anticipated discovery requirements.
7. A proposed discovery schedule and date of completion.
8. An estimate as to length of trial.

9. Preliminarily set forth the number of witnesses to be called by each party and a list of exhibits to be introduced into evidence.

10. Identify each witness to be called and identify to which disputed issues of fact such witnesses' testimony will be directed.

11. A statement as to whether any attempts have been made at resolving any of the issues in dispute and any results of such attempts.

Counsel for the Plaintiff is hereby directed to serve a copy of this Order upon all parties and counsel to the proceeding either with the summons and complaint or within ten (10) days thereafter and file proof of service together with the PRELIMINARY PRE-CONFERENCE STATEMENT.

It is expected that a single PRELIMINARY PRE-CONFERENCE STATEMENT will be filed in an adversary proceeding. However, if for any reason the parties cannot file a single PRELIMINARY PRE-CONFERENCE STATEMENT, separate PRELIMINARY PRE-CONFERENCE STATEMENTS may be filed with proof that each has been served upon all parties to the proceeding.

A copy of the PRELIMINARY PRE-CONFERENCE STATEMENT marked "filed" will be returned to you if a self-addressed stamped envelope is enclosed.

Failure to comply with this Order may result in sanctions including, but not limited to, the granting of relief by default, the striking of pleadings, or the preclusion of undisclosed documents or witnesses, together with costs.

Attendance of all counsel to the litigation is required at the PRE-TRIAL CONFERENCE.

Dated: Central Islip, New York

DOROTHY EISENBERG
Bankruptcy Judge